HON'BLE SHRI G.S.SINGHVI, THE CHIEF JUSTICE
AND
HON'BLE SHRI JUSTICE C.V. NAGARJUNA REDDY

WRIT PETITION No. 21732 OF 2006

Between:

Devineni Basava Rao

..... Petitioner

AND

The Commissioner,
Eluru Municipal Corporation,
Eluru City & others

.....Respondents

:: O R D E R::

Counsel for the Petitioner : Shri V. Ramachander Goud

Dated: 23.10.2006

Per G.S.SINGHVI, CJ

This is a petition for quashing notice dated 08.09.2006 issued by Commissioner, Municipal Corporation, Eluru (respondent No.1) under Sections 635 and 636 of Hyderabad Municipal Corporation Act, 1955 (for short 'the 1955 Act') read with Andhra Pradesh Municipal Corporations Act, 1994.

A reading of the impugned notice shows that respondent No.1 had merely called upon the petitioner to produce sanctioned plan and ownership document in respect of building bearing door No.22C-14-4, Assessment No. 22410 situated at Punnyamurthula Vari Street, Power Pet, Eluru with an indication that if he fails to do so, the building will be treated as unauthorized and will be demolished without any further notice. After almost fifteen days of the issue of notice, the petitioner made representation dated 23.09.2006 for grant of twenty days' time for complying with the notice. At the end of twenty days period, he has filed this petition for quashing the notice.

We have heard Shri V. Ramachander Goud and perused the record.

In our opinion, there is no valid ground or justification for the Court's interdiction with the proceedings initiated by respondent No.1 under Sections 635 and 636 of the 1955 Act and the writ petition is liable to be dismissed as premature. What the Commissioner of Eluru Municipal Corporation has done is to call upon the petitioner to produce sanctioned plan and ownership documents with a stipulation that his failure to do so would result in demolition of the property. Therefore, instead of rushing to the Court, the petitioner should have produced the relevant documents before the Commissioner of the Corporation and made a prayer for dropping the proceedings. Since that course has not been adopted

by the petitioner, we are not inclined to entertain his prayer.

In the result, the writ petition is dismissed. However, liberty is given to the petitioner to file reply to notice dated 08.09.2006 and convince the Commissioner of the Corporation that the construction made by him does not violate the sanctioned plan and that he is the owner of the site. We hope and trust that if the petitioner files reply within seven days from today, the concerned authority shall consider the same and pass appropriate order before taking any action for demolition of his property.

As a sequel to dismissal of the writ petition, W.P.M.P.No.27566 of 2006 filed by the petitioner for interim relief is disposed of as infructuous.

G.S.SINGHVI, CJ

C.V. NAGARJUNA REDDY, J

23.10.2006
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